

1 THE COURT: Mr. Dale Matheny, in consideration of
2 the offense of which you stand convicted, the information
3 from the United States Attorney, your attorney, and the
4 probation office, this Court sentences you to one year,
5 broken down, as follows: Six months' imprisonment; no
6 recommendation of community confinement. Six months' home
7 confinement. It's not required that you wear an electronic
8 bracelet during the six months of home confinement.

9 You are allowed to leave the home confinement to
10 work. You're allowed to leave the home confinement for any
11 medical appointments that either you or any member of your
12 family has so you can be with a member of your family. You
13 are allowed to leave for any religious observances. Other
14 than that you're confined. Your wife can do the shopping
15 for necessities.

16 \$2,000 fine, \$325 special assessment, one year of
17 supervised release with all the standard conditions of
18 supervised release.

19 You're required to supply a DNA sample. You are
20 required to pay the fine in accordance with the instructions
21 of the United States Probation Office. You are required to
22 give any financial information they may request. They are
23 entitled to share that financial information with the Office
24 of the Financial, Financial Recovery Office of the United
25 States Attorney.

1 Let me explain the sentence, Mr. Matheny. You knew
2 exactly what you were doing here. You were stiffing the
3 United States in a voluntary tax, largely voluntary tax
4 system. You knew you were underpaying. You may not have
5 known how much, but you knew very well that you were not
6 paying the taxes that you were required to pay. You were
7 not making the payments of taxes on behalf of people who you
8 employed, taxes which are necessary so that the government
9 may provide them all with the services that they need when
10 they fall into unemployment and the like.

11 In a system such as this it is the view of this
12 Court that tax cheats must in fact go to prison. That's why
13 I'm not recommending any community confinement. As a
14 deterrent to us all it ought be known that you have served
15 time in prison.

16 I will say this. The government in your case could
17 not have been more fair. In your case the government
18 negotiated a plea agreement. The government adhered
19 strictly to the agreement that it negotiated with you. This
20 Court's view of the sentencing requirements of the
21 constitution required the government to expend additional
22 and significant resources to bring us to the point of
23 sentencing. The government expended those resources and in
24 a most professional and competent way laid the matters
25 before the Court. Sensitive to my obligation to make

1 findings beyond a reasonable doubt you got a significant
2 advantage practically from that proceeding. And that's
3 fine. That's what the constitution requires. The
4 government has in every respect been up to the mark here. I
5 am satisfied that given the sentencing structure that we are
6 under, while I cannot find beyond a reasonable doubt a tax
7 loss beyond what I've stated, it does seem to me that the
8 great likelihood is that the tax loss was considerably
9 higher. As a practical matter you've gotten all the
10 advantage of that and the government has stuck, as it is
11 required to, but I respect them for it, to its low end
12 recommendation. I haven't given you the low end. I haven't
13 gone up that much. Two months. But in my mind that is an
14 appropriate and just resolution of the case.

15 Both you and the government are notified that you
16 have the right to appeal from any findings or rulings the
17 Court has made against you. And you are further notified
18 that should there be any appeal and on appeal if the
19 sentence of this Court is vacated or reversed in whole or in
20 part, resentencing shall be before another judge.

21 That's the sentence of the Court. Yes?

22 THE PROBATION OFFICER: Your Honor, just a
23 technical issue I just wanted to clarify.

24 THE COURT: Let's do it now.

25 THE PROBATION OFFICER: With regard to the period

1 of incarceration, it's a period of six months' custody of
2 the Bureau of Prisons without a recommendation.

3 THE COURT: That doesn't mean they can't put him in
4 community confinement. Mr. Fleming can pursue it.

5 THE PROBATION OFFICER: Right.

6 THE COURT: I'm just making no such recommendation.
7 I'm not recommending against it. I've said what I've said
8 on the record. I'm not recommending it, that's all.

9 THE PROBATION OFFICER: And my last question with
10 regard to the six months home confinement without electronic
11 monitoring. Is that to be imposed as a condition of the one
12 year supervised release?

13 THE COURT: Yes, it is.

14 THE PROBATION OFFICER: Okay.

15 THE COURT: Right. And I've made the conditions
16 sufficiently clear that everyone can understand them?

17 THE PROBATION OFFICER: Yes. Unless there were
18 some --

19 (Whereupon the Court and the Clerk conferred.)

20 THE COURT: Yes, the first six months.

21 THE PROBATION OFFICER: The first six months of
22 supervised release.

23 THE COURT: Correct.

24 THE PROBATION OFFICER: And the only other thing, I
25 believe in the plea agreement the government had recommended

1 a couple of additional special conditions, such as requiring
2 him to meet with the Internal Revenue Service within the
3 first 60 days of supervision.

4 THE COURT: It is so imposed. And?

5 THE PROBATION OFFICER: That's basically it except
6 for I had more detailed wording. But you got, you got the
7 gist of everything.

8 THE COURT: So long as the substance is what I
9 said --

10 THE PROBATION OFFICER: Exactly.

11 THE COURT: -- that's what I want.

12 Are there any questions, because it's an involved
13 sentence. Mr. Pinneault, no questions?

14 MR. PINNEAULT: No questions, your Honor.

15 THE COURT: Mr. Fleming, no questions?

16 MR. FLEMING: No questions, your Honor.

17 THE COURT: That's the sentence of the Court.

18 Oh, self-reporting. I take it there's no objection
19 to self-reporting?

20 MR. PINNEAULT: None, your Honor.

21 THE COURT: He shall have six weeks to self-report.

22 He'll report to the place of confinement on the 16th of
23 February 2005.

24 That's the sentence of the Court. We'll recess.

25 THE CLERK: All rise. Court is in recess.

1 (Whereupon the matter concluded.)

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